

Date signed May 15, 2008



PAUL MANNES
U. S. BANKRUPTCY JUDGE

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
at Greenbelt**

| | | |
|--------------------------------|---|-------------------------|
| IN RE: | : | |
| | : | |
| PAULETTE M. WALTON | : | Case No. 03-14929PM |
| | : | Chapter 13 |
| Debtor | : | |
| ----- | : | |
| PAULETTE M. WALTON | : | |
| Plaintiff | : | |
| vs. | : | Adversary No. 06-1757PM |
| | : | |
| BRETT COHEN | : | |
| YOMMA COHEN | : | |
| WILLIAM JEFFERSON | : | |
| FIRST FRANKLIN FINANCIAL CORP. | : | |
| Defendants | : | |
| ----- | : | |
| WILLIAM JEFFERSON | : | |
| Counter-Claimant | : | |
| vs. | : | |
| | : | |
| PAULETTE M. WALTON | : | |
| Counter-Defendant | : | |
| ----- | : | |

MEMORANDUM OF DECISION

This case came before the court on a status conference and on three motions filed by the Defendants, Brett Cohen and Yomma Cohen ("the Cohens"). The motions are: (1) **D.E. #140** - Application for Leave to File Answer to Plaintiff's Complaint and Renewed Motion to Vacate Entry of Default; (2) **D.E. #141** - Amended Motion to Continue Hearing or Abate Hearing on Plaintiff's Motion for Default Judgment Pending Disposition of Defendants' Motion to Dismiss

for Failure to State a Claim and Defendants' Application for Leave to File an Answer to Plaintiff's Complaint; and (3) **D.E. 142** - Amended Motion to Dismiss Adversary Proceeding.

On December 26, 2006, the Clerk entered a Default as to Brett Cohen and Yomma Cohen. A Motion to Vacate Entry of Default was filed on January 24, 2007, and a hearing was held on that Motion on February 27, 2007, at which time the Cohens were represented by counsel. For the reasons set forth in a Memorandum of Decision filed March 1, 2007, the Motion to Vacate Entry of Default was denied. The Cohens then filed a Motion to Set Aside the Entry of Default Judgment on March 12, 2007, that was denied by Order entered March 27, 2007.

The Defendant, Yomma Cohen, after the filing of this adversary proceeding, filed a bankruptcy case in the District of Columbia that was subsequently dismissed. On February 20, 2008, the Defendant, Brett Cohen, filed a bankruptcy case under Chapter 7 in this court. Therefore, this adversary proceeding action is stayed as to him. The court perceives that in due course Yomma Cohen will file another bankruptcy action in the District of Columbia.

The court finds no basis for granting the Motion to Dismiss this adversary proceeding for failure to state a claim, and finds no basis for granting the Defendants' (third) Motion to Vacate Entry of Default. The Clerk will issue a Notice of Hearing on the amount of the Judgment to be entered against the Defendant Yomma Cohen. Following the entry of an Order of Judgment, the Clerk is will be directed to close this adversary proceeding.

An appropriate order will be entered.

cc:

Brett Cohen, 4301 Southern Avenue, Capitol Heights MD 20743

Yomma Cohen, 4301 Southern Avenue, Capitol Heights MD 20743

Scott Borison, Esq., 5500 Buckeystown Pike, Frederick MD 21703

Matthew G. Summers, Esq., Ballard Spahr, 300 East Lombard St., Baltimore MD 21202

End of Opinion